

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

*In re: National Collegiate Athletic Association  
Student-Athlete Concussion Injury Litigation*

Case No: 13-cv-9116  
MDL No. 2492

[This Document Relates to all cases]

Hon. John Z. Lee  
Magistrate Judge Brown

**CLASS PERSONAL INJURY PLAINTIFFS' COMBINED RESPONSE TO  
THE JOINT MOTION FOR 60-DAY STAY (DKT. 53) AND THE MEDICAL  
MONITORING PLAINTIFFS' "AGREED" LEADERSHIP APPLICATION (DKT. 49)**

**Respectfully submitted by:**

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This brief serves as a combined response to (a) the Medical Monitoring Plaintiffs’ and NCAA’s joint motion to stay (Dkt. 53), and (b) the Medical Monitoring Plaintiffs’ “agreed” application for appointment of lead counsel for the medical monitoring claims (Dkt. 49).

With respect to the joint motion to stay, the Class Personal Injury Plaintiffs (i.e., those class members pursuing personal injury claims) do not oppose a general stay of the litigation given the continued progress that is being made through settlement talks with the NCAA. However, the Class Personal Injury Plaintiffs believe that the court should not stay the decision concerning leadership over the respective personal injury and medical monitoring classes. Indeed, prompt decision on leadership is necessary to provide the parties with a clear understanding of their roles and representations as they continue working toward resolution of this litigation—a proposition that even the Medical Monitoring Plaintiffs seem to acknowledge.<sup>1</sup>

With respect to the latter issue, the Class Personal Injury Plaintiffs do not oppose the Medical Monitoring Plaintiffs’ application for lead *to the extent that such appointment is limited to medical monitoring claims only*. Because the Medical Monitoring Plaintiffs’ proposed order that was submitted along with their “agreed” leadership application is significantly broader than that<sup>2</sup>—and would encompass class personal injury issues that they have consistently repudiated—the Court should make clear that their representation is limited to medical

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<sup>1</sup> See MDL Plaintiffs’ Objection to Plaintiff Nichols’ Motion to Appoint Jay Edelson as Lead Counsel of the Personal Injury Claims, Dkt. 55 at 3 (citing WRIGHT & MILLER § 1802.3) (“there may be rivalry or *uncertainty* that makes formal designation of interim counsel appropriate”) (emphasis added).

<sup>2</sup> The Medical Monitoring Plaintiffs’ proposed order, which is attached hereto as Exhibit 1, broadly seeks appointment as “Co-Lead Counsel for the *proposed class of current and former NCAA student-athletes*” (Ex. 1 at ¶ 1) (emphasis added), as well as “authority [to act] . . . *on behalf of the putative class and all plaintiffs in this consolidated action* . . . [including with respect to] “the prosecution of or resolution of their respective cases” (*Id.* at ¶ 5) (emphasis added).

monitoring issues.<sup>3</sup>

For these reasons, Class Personal Injury Plaintiffs respectfully request that this Court (i) deny the joint motion to stay as it relates to the resolution of leadership issues, and (ii) deny the Medical Monitoring Plaintiffs' leadership application to the extent it seeks appointment beyond the medical monitoring claims.

Respectfully submitted,

**Anthony Nichols, individually on behalf of the  
Class Personal Injury Plaintiffs,**

By: /s/ Ari J. Scharg  
One of his attorneys

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<sup>3</sup> In an effort to avoid motion practice, Class Personal Injury Plaintiffs asked the Medical Monitoring Plaintiffs to clarify that they weren't seeking appointment over the class personal injury claims. This request for clarification, however, was rejected.

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**CERTIFICATE OF SERVICE**

I, Ari J. Scharg, an attorney, hereby certify that on May 15, 2014, I served the above and foregoing ***Class Personal Injury Plaintiffs' Combined Opposition to Joint Motion for 60-Day Stay (Dkt. 53) And The Medical Monitoring Plaintiffs' "Agreed" Leadership Application (Dkt. 49)***, by causing a true and accurate copy of such paper to be filed and served on all counsel of record via the CM/ECF filing system on this the 15th day of May 2014.

/s/ Ari J. Scharg